

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT UW-160531

PLEASE NOTE: You must complete and sign this document, and send it to the Commission within 15 days after you receive the penalty assessment. Use additional paper if needed.

I have read and understand RCW 9A.72.020 (printed below), which states that making false statements under oath is a class B felony. I am over the age of 18, am competent to testify to the matters set forth below and I have personal knowledge of those matters. I hereby make, under oath, the following statements.

[] 1. Payment of penalty. I admit that the violations occurred. I have:

[] Enclosed \$ _____ in payment of the penalty

[] Submitted my payment of \$ _____ online at www.utc.wa.gov. My confirmation number is _____.

[] 2. Request for a hearing. I believe that one or more of the alleged violations did not occur, for the reasons I describe below, and I request a hearing based on those reasons for a decision by an administrative law judge:

[X] 3. Application for mitigation. I admit the violations, but I believe that the penalty should be reduced for the reasons set out below:

[] a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision

OR

[X] b) I ask for a Commission decision based solely on the information I provide above. See attachments

I declare under penalty of perjury under the laws of the State of Washington that the foregoing, including information I have presented on any attachments, is true and correct.

Dated: 6/30/16 [month/day/year], at Auburn, WA [city, state]

Newaukum Water System
Name of Respondent (company) - please print

Maurice Kurtz
Signature of Applicant

RCW 9A.72.020:

"Perjury in the first degree. (1) A person is guilty of perjury in the first degree if in any official proceeding he makes a materially false statement which he knows to be false under an oath required or authorized by law. (2) Knowledge of the materiality of the statement is not an element of this crime, and the actor's mistaken belief that his statement was not material is not a defense to a prosecution under this section. (3) Perjury in the first degree is a class B felony."

2016 JUN -5 AM 9:49
RECEIVED

June 30, 2016

From: Newaukum Water System, Inc.
PO Box 1287
Enumclaw, WA 98022-1287


Subject: UW-160533 Mitigation

To: Gregory Kopta, Administrative Law Judge

There is no question that we were three days late in filing our annual report, but we are asking for a complete mitigation of the fine. We did not owe any regulatory fees nor will we ever, because of our small system and limitations placed on us by the UTC. The following are the reasons for this request:

- 1) The annual report notice was unfortunately set aside at the time of receipt because I had just returned from a hospital stay from a severe case of gout and heart issues. I have not fully recovered as of this writing. Pictures of my legs are attached. I apologize for this oversight, but when you can't walk without pain and a walker you're not likely to be too sharp at making sure items get on the date schedule along with people requesting their water service be improved. I do not receive compensation for my services to the community.
- 2) The \$100 dollar per day late fee is totally out of reason for a small water system with 22 connections that has had its income severely limited by the UTC. We only have a little over \$300 per month left after monthly mandatory expenses, to meet unscheduled maintenance requirements, which have been many and costly this year.
- 3) Because of the rate determining policy of the UTC, we were not able to pay two bank debts and a lawyer bill that was incurred by the previous president. Since that default, the previous president, Mr. Lindebak, filed a lawsuit against Newaukum Water and won his case in court. The court award to Mr. Lindebak was \$5019 and we do not have money to pay him. The debt has to be paid by donations from the water users and there are only about half of the water users willing to contribute. One person has stopped payment on their donation, because of a letter that one of the water users sent to all of the community, stating that there was no need to pay the court ordered award. He claims that Mr. Lindebak was suing himself, so therefore the court judgment does not count. With these kinds of issues, facing Newaukum Water System (NWS), we would appreciate your complete mitigation of the fine.

Sincerely,



Maurice Kurtz
NWS Chairman of the Board

Attachments:

- 1) Picture of what a gout attack is like
- 2) King County Judgment against NWS





KING COUNTY DISTRICT COURT

South Division-Auburn Courthouse

STATE OF WASHINGTON

LINDEBAK, KENNETH E

Plaintiff,

No.

168-00616

VS.

Small Claims Judgment

NEWAUKUM WATER SYSTEM, INC

Defendant,

This matter was heard in open court on the date stated below Pursuant to.

Trial Default Dismissal With prejudice Without Prejudice

Mediation Agreement Continued

The court, having considered all the evidence presented, does hereby ORDER, ADJUDGE AND DECREE

that a judgment is hereby granted to the as set below in favor of Plaintiff

PRINCIPAL \$ 4982.16

TOTAL JUDGMENT \$5019.76

FILING FEE \$ 25.00

POST JUDGMENT INTEREST 12%

RATE %

SERVICE FEE \$ 1260

Plaintiff's case is dismissed with prejudice without prejudice

Defendants counter claim is dismissed with prejudice without prejudice

Explanation of decision

See attached

Comments

NOTE If the judgment is not paid within thirty(30) days from today, the can notify the clerk For a fee, a Judgment Transcript shall be available from the Clerk's Office Thereafter, reasonable

costs and attorney fees are allowed in enforcing the judgment

Note to Defendant: Payment should/needs to be made directly to the Petitioner.

Dated 05/19/2016

Kaz Murphy
PO ✓

MISC 05 0500 (6/2004) RCW 124 40 080

Undisputed facts/evidence:

- The Respondent, Newaukum Water System Inc was and is a non-profit corporation governed by Articles of Incorporation.
- The Plaintiff, Kenneth Lindebak, was the President of said Corp at the time the incidents occurred which gave rise to this action.
- The Plaintiff had authority to act on behalf of said corporation with majority member approval.
- The debts incurred that serve as the basis of this action were incurred when the Plaintiff secured a loan on behalf of the corporation and signed as the guarantor of said loan and when the Plaintiff used the corporate credit card.
- The debt was approved by the Respondent corporation and a membership majority approved each expenditure.
- The Respondent Corporation adopted this debt as its own and proceeded to make payments monthly on said debts.
- The Respondents eventually became unable to make said payments and notified both debtors of their "financial predicament".
- The respective banks went after the Plaintiff as the guarantor of the loans.
- The Plaintiff paid on said loans to protect his personal credit.
- The Respondent does not deny liability for the debt, they simply assert that they don't have the money to pay it

The Court rules in favor of the Plaintiff in the amount of \$4982.16. The PLAINTIFF IS BARRED FROM ANY FURTHER RECOVERY RELATED TO THIS ACTION.